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Chapter: **RECIPIENT RIGHTS**  
Title: **SECOND OPINION RIGHTS**

Prior Approval Date: 7/30/09  
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Approved by: BOARD ACTION

  
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Executive Director

08/29/12  
Date

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**I. Abstract**

This policy establishes the standards and procedures to assure a consumer's right to request a second opinion for denial of psychiatric hospitalization or a denial of mental health services by the Macomb County Community Mental Health (MCCMH) Board.

**II. Application**

This policy shall apply to all directly-operated and contract network providers of the MCCMH Board.

**III. Policy**

- A. The Access Center shall coordinate/determine consumer eligibility, authorization for assessments, types/levels/duration for hospitalization and mental health services.
- B. MCCMH shall assure that consumers who voluntarily seek/request inpatient psychiatric admission or emergency psychiatric admission to hospitals under contract to the MCCMH Board and who are denied admission by the Access Center, shall be informed of and may request, at no cost to the consumer, a second opinion from the MCCMH Executive Director.
- C. MCCMH shall assure that consumers who initially apply for Board-provided mental health services and are denied services by the Access Center, shall be informed of and

may request a second opinion from the MCCMH Executive Director.

- D. Second opinion protocol for both denial of psychiatric hospitalization and access to mental health services shall be based upon eligibility criteria as determined by MCCMH MCO policies and procedures, Michigan's Mental Health Code, Department of Community Health (MDCH) Administrative Rules and MDCH contractual requirements.
- E. MCCMH providers which do not concur with the Access Center's service decisions concerning types, levels or duration of mental health services or hospitalization, may utilize MCCMH MCO Policy 2-006, "Service Provider Appeals."

#### IV. Definitions

- A. None.

#### V. Standards

##### A. MCCMH Services - Adults / Minors

1. The MCCMH Access Center shall determine eligibility of a new applicant for MCCMH-provided mental health services (non-hospitalization). The Access Center may authorize an assessment by a MCCMH provider. Upon conclusion of the assessment process, the provider shall notify the Access Center of its finding(s) and recommendation(s).
2. If the new applicant for MCCMH-provided mental health services is denied services by the Access Center, the applicant, his or her guardian if one has been appointed, or the applicant's parent(s) if the applicant is a minor, shall be informed by the Access Center of his/her right to request a second opinion, at no cost to the consumer, from the MCCMH Executive Director.
3. If a new applicant for MCCMH-provided mental health services (non-hospitalization) is accepted but not at the level and/or of the type of mental health services he/she desires/requests, the applicant, his/her guardian if one has been appointed, or the applicant's parent(s) if the applicant is a minor, shall be informed of his/her right to request one or more of the following:
  - a. Consumers covered by Medicaid may use any or all of the below at any time:
    - 1) Access to the informal resolution process of their providers for consumer/provider disagreements.

- 2) Access to the Local Dispute Resolution Process of their local providers.
  - 3) Submission of a Recipient Rights Complaint, in accordance with MCCMH MCO Policy 9-510, alleging that his/her right to receive mental health services suited to his or her condition has been violated; or
  - 4) Access to a MDCH Medicaid Fair Hearing.
- b. Consumers not covered by Medicaid must take the following steps:
- 1) Access to the informal resolution process of their local providers for consumer/provider disagreements.
  - 2) Access to the Local Dispute Resolution Process of their local providers.
  - 3) Access to the MDCH Alternative Dispute Resolution Process.
- NOTE: The informal resolution process and the Local Dispute Resolution Process may be used at the same time. Consumers must use the Local Dispute Resolution Process before accessing the Alternative Dispute Resolution Process.
- 4) Submission of a Recipient Rights Complaint, in accordance with MCCMH MCO Policy 9-510, alleging that his/her right to receive mental health services suited to his or her condition has been violated. The Recipient Rights Complaint may be made at any time, in addition to or in lieu of the steps outlined in IV.A.3.b.1) - 3).

B. Psychiatric Hospitalization - Adults

1. If a hospital denies psychiatric hospitalization prior to contacting the Access Center, the hospital shall inform the person of his or her right to request a second opinion, at no cost to the consumer, from the MCCMH Executive Director.
2. An individual seeking either formal or informal voluntary psychiatric admission to a hospital may be accepted for admission by the hospital only after authorization by the Access Center.

3. If the Access Center denies hospitalization, the individual shall be informed by the Access Center of his/her right to request a second opinion, at no cost to the consumer, from the MCCMH Executive Director.

C. Psychiatric Hospitalization - Minors

1. Hospitals shall notify the Access Center when there is a request for psychiatric hospitalization of a minor (whether emergent or non-emergent).
2. The Children's Diagnostic and Treatment Services staff of the Access Center shall review all requests for hospitalization of minors
3. If the Access Center denies hospitalization, the minor's parent(s), guardian, or person *in loco parentis* shall be informed by Access Center of his/her right to request a second opinion, at no cost to the consumer, from the MCCMH Executive Director.

D. Unavailability - Notification - Coordination

1. Except for denial of inpatient hospitalization, the second opinion process is not available for current MCCMH consumer disputes/differences concerning level of care (IV.B. and C.)
2. Failure to inform individuals, guardians and/or parents as applicable, of the right to request a second opinion as defined by this policy, shall be considered a violation of the Michigan Mental Health Code, MDCH Administrative Rules, and the consumer's Recipient Rights.
3. Notification of second opinion requests and findings (both for denials of hospitalization and MCCMH mental health services) shall be conveyed by the MCCMH Executive Director to the Office of Recipient Rights (ORR), which shall maintain a record of all notifications and outcomes.
4. The Executive Director shall notify individuals and the Access Center of second opinion results regarding hospitalization and/or eligibility for mental health services.
5. The Access Center shall coordinate services or referrals, as appropriate.

**VI. Procedures**

- A. Denial of MCCMH Mental Health Services (non-hospitalization) by Access Center -

Adults / Minors

1. New applicants for MCCMH Board mental health services (non-hospitalization), shall have their eligibility determined by the Access Center. Upon Access Center denial of suitability for Board-provided mental health services, the applicant shall be notified by the Access Center of his/her right to request a second opinion, at no cost to the consumer, and informed of the proper procedures for submission of the request to the MCCMH Executive Director.
  2. The Executive Director, upon receipt of a written (may be made by fax) request for a second opinion, shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, master's level social worker, or master's level psychologist.
  3. The second opinion shall be completed within 5 business days after receipt of the accumulated clinical data utilized in the formulation of the original findings/recommendations of the provider. The individual secured to perform the second opinion may, at his or her discretion, recommend a face-to-face assessment of the applicant. The individual providing the second opinion shall determine whether the applicant has a serious mental illness, serious emotional disturbance, or a developmental disability, and whether he/she is experiencing an emergency situation or urgent situation.
  4. If the individual providing the second opinion determines that the adult applicant has a serious mental illness or a developmental disability, MCCMH shall direct services to the applicant.
  5. If the individual providing the second opinion determines that the minor applicant has a serious emotional disturbance or a developmental disability, MCCMH shall direct services to the applicant.
  6. The Executive Director shall notify individuals, the Access Center, and the Recipient Rights Office of second opinion results regarding eligibility for services.
  7. The Access Center shall coordinate services or referrals, as appropriate.
- B. Psychiatric Hospitalization - Adults / Minors (requesting psychiatric hospitalization or for whom a request for hospitalization was made; Emergency admission).
1. Upon Access Center denial of suitability for psychiatric hospitalization, the consumer shall be notified by Access Center, of his/her right to request a second opinion, at no cost to the consumer, and informed of the proper procedures for

submission of the request to the MCCMH Executive Director. Upon receipt of a written (may be made by fax) request to the Executive Director for a second opinion, the Executive Director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist to be performed within 3 days, excluding Sundays and legal holidays.

2. If the conclusion of the second opinion is different from the determination of the Access Center, the Executive Director, in conjunction with the MCCMH Medical Director, shall make a decision based on all clinical information available.
3. The Executive Director's decision shall be confirmed in writing to the individual who requested the second opinion, and the confirming document shall include the signatures of the Executive Director and Medical Director or verification that the decision was made in conjunction with the Medical Director.
4. The Executive Director shall notify individuals, the Access Center, and the Recipient Rights Office of second opinion results regarding suitability for hospitalization.
5. If the individual is assessed not clinically suitable for psychiatric hospitalization, the Access Center shall provide referral to appropriate alternative services.

## **VII. References / Legal Authority**

- A. MCL 330.1409
- B. MCL 330.1498e
- C. MCL 330.1705
- D. MDCH/PIHP Medicaid Managed Specialty Supports and Services Contract FY 2012 Attachment P.6.3.2.1
- E. MDCH/CMHSP Managed Mental Health Supports and Services Contract FY 2012 Attachment C.6.3.2.1

## **VIII. Exhibits**

- A. None.